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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/824,045

04/14/2004

Cong Thanh Dinh

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7590

11/09/2004

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EXAMINER

ESTRADA, ANGEL R

ART UNIT

PAPER NUMBER

2831

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/824,045

Applicant(s)

DINH, CONG THANH

Examiner

Angel R. Estrada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 04/14/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed on April 14, 2004 has been considered by the Examiner.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “*electrical closure apparatus wherein the impression member extends from and is integrally formed with the connector port (claim 6)*” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of

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the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schell (US 5,434,359) in view of Mohr (US 2,775,812).

Regarding claim 1, Schell discloses an electrical closure apparatus (10) for installing in a wall (14), the electrical closure apparatus (10) comprising a front face (see figure 1) defining a front area; a rear face (40) disposed opposite the front face, the rear face (40) defining a rear area less than or equal to the front area and having at least one connector port (not mentioned but clearly shown in figures 2 and 3, notice the circular opening in the rear face 40) disposed therein; but Schell lacks at least one impression member spaced from the rear face such that an outline is made, at least partially of the rear face when pressed against the wall. Mohr teaches an electrical closure apparatus (see figure 10) comprising a front face and a rear face (see figure 1); and at least one impression member (25d) spaced from the rear face such that an outline is made, at least partially of the rear surface when pressed against the wall (see

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figure 10 or column 2 lines 17-24 or column 5 lines 16-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make Schell's electrical closure apparatus with at least one impression member spaced from the rear face such that an outline is made, at least partially, of the rear surface when pressed against the wall as taught by Mohr to provide means that will defined a cutout area on a wall surface to facilitate the method of cutting openings for electrical apparatus in sheets of wallboard and the like.

Regarding claim 2, the modified Schell discloses the electrical closure apparatus (10) wherein the impression member (25d as taught by Mohr) is a point (see figure 10 of Mohr).

Regarding claim 3, the modified Schell disclosed the electrical closure apparatus (10) wherein the impression member (25d as taught by Mohr) is a raised edge (see figure 10).

Regarding claim 4, the modified Schell discloses the electrical closure apparatus (10) wherein the impression member (25d as taught by Mohr) is integrally formed on the front face (as taught by Mohr, see figure 10).

Regarding claim 5, the modified Schell discloses the claimed invention except for the impression member being spaced from the front face. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make Schell's electrical closure apparatus with impression member spaced from the front spaced, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Regarding claim 6, the modified Schell discloses the claimed invention except for the impression member extending from and being integrally with the connector port. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make Schell's electrical closure apparatus with the impression member extending from and being integrally formed with the connector port, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Regarding claim 7, the modified Schell discloses the claimed invention except for the electrical closure apparatus (10) having the impression member extending from and is integrally formed with the rear face. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make Schell's electrical closure apparatus with the impression member extending from and being integrally formed with the rear surface, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Regarding claim 8, Schell discloses an electrical closure apparatus (10) for installing in a wall (14), the electrical closure apparatus (10) comprising a recessed portion for installing within the wall (see figure 1); a front edge (62) coupled to the recessed portion (see figure 1), the edge (62) for abutting the wall (14) when the electrical closure apparatus (10) is installed; but Schell lacks least one impression member secured to the electrical closure apparatus such that a two-dimensional outline is made, at least partially of the recessed portion when the impression member is pressed against the wall. Mohr teaches an electrical closure apparatus (see figure 10)

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comprising at least one impression member (25d) secured to the electrical closure apparatus (see figure 10) such that a two-dimensional outline is made, at least partially, of the recessed portion when the impression member is pressed against the wall (see figure 10 or column 2 lines 17-24 or column 5 lines 16-25)). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make Schell's electrical closure apparatus with at least one impression member secured to the electrical closure apparatus such that a two-dimensional outline is made, at least partially, of the recessed portion when the impression member is pressed against the wall as taught by Mohr to provide means that will defined a cutout area on a wall surface to facilitate the method of cutting openings for electrical apparatus in sheets of wallboard and the like.

Regarding claim 9, the modified Schell discloses the electrical closure apparatus (10) wherein the impression member (25d, as taught by Mohr) is a point (see figure 10 of Mohr).

Regarding claim 10, the modified Schell discloses the electrical closure apparatus (10) wherein the impression member (25d, as taught by Mohr) is a raised edge (see figure 10 of Mohr).

Regarding claim 11, the modified Schell discloses the electrical closure apparatus (10) wherein the impression member (25d, as taught by Mohr) is a geometric shape (see figure 10 of Mohr). Furthermore, where the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a

particular shape, a change of shape is generally recognized as being within the level of ordinary skill in the art. *Span-Deck Inc. V. FabCon, Inc.*, 215 USPQ 835.

Regarding claim 12, Schell discloses the electrical closure apparatus (10) wherein the recessed portion (see figure 1) includes a wall attachment means (60) coupled thereto (see figures 1 and 2).

Regarding claim 13, Schell discloses the electrical closure apparatus (10) wherein the recessed portion (see figure 1) includes, at least partially, the wall attachment means (see figures 1 and 2).

Regarding claim 14, the modified Schell discloses the electrical closure apparatus (10) wherein the impression member (25d, as taught by Mohr) extends from and is integrally formed with the recessed portion (as taught by Mohr, see figure 10).

Regarding claim 15, the modified Schell discloses the electrical closure apparatus (10) wherein the impression member (25d, as taught by Mohr) extends from and is integrally formed with the front edge (as taught by Mohr, see figure 10).

Regarding claim 16, Schell discloses an electrical closure apparatus (10) for installing in a wall (14), the electrical closure apparatus (10) comprising: four bounding side walls (32,34,36,38); a rear wall (40) coupled to the four bounding side walls (see figures 1 and 2) and having a front face and a rear face disposed opposite the front face (see figure 1); a recessed portion (see figure 1) formed by the four side walls (32,34,36, 38) and the rear wall (40) for installing within the wall (14); a front edge (62) integrally formed with the four bounding side walls (see figure 1) for abutting the wall (14) when the electrical closure apparatus (10) is installed therein; but Schell lacks at least one

impression member disposed on the electrical closure apparatus for making an outline on the wall when pressed there against. Mohr teaches an electrical closure apparatus (see figure 10) comprising at least one impression member (25d) disposed on the electrical closure apparatus (see figure 10) for making an outline on the wall when pressed there against (see figure 10 or column 2 lines 17-24 or column 5 lines 16-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make Schell's electrical closure apparatus with at least one impression member for making an outline on the wall when pressed there against as taught by Mohr to provide means that will defined a cutout area on a wall surface to facilitate the method of cutting openings for electrical apparatus in sheets of wallboard and the like.

Regarding claim 17, the modified Schell discloses the electrical closure apparatus (10) wherein the impression member (25d, as taught by Mohr) is a geometric shape (see figure 10 of Mohr). Furthermore, where the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular shape, a change of shape is generally recognized as being within the level of ordinary skill in the art. *Span-Deck Inc. V. FabCon, Inc.*, 215 USPQ 835.

Regarding claim 18, the modified Schell discloses the electrical closure apparatus (10) wherein the impression member (25d, as taught by Mohr) is a raised edge (see figure 10 of Mohr).

Regarding claim 19, the modified Schell discloses the electrical closure apparatus (10) wherein the impression member (25d, as taught by Mohr) is formed on the recessed portion and raised thereof (see figure 10 of Mohr).

Regarding claim 20, the modified Schell discloses the electrical closure apparatus (10) wherein the impression member (25d, as taught by Mohr) is formed on the front edge and raised thereof (see figure 10 of Mohr).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Giordano (US 3,940,857), Mallison et al (US 5,157,844) Mesa (US 6,101,731), Reynolds et al (Des. 315,316)), Marrero (US 4,098,423), Depino (US 6,241,368), Bordwell et al (US 5,603,424) and Morgan et al (US 6,403,883) disclose an electrical closure apparatus.

5. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (571) 272-1973. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 Ext: 31. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

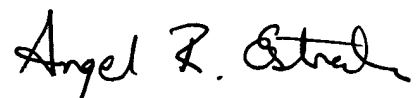
Information regarding the status of an application may be obtained from the

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Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AE

October 27, 2004



Angel R. Estrada
Patent Examiner
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